



Sen. John M. Sullivan

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LRB097 20210 CEL 67011 a

1 AMENDMENT TO SENATE BILL 3574

2 AMENDMENT NO. _____. Amend Senate Bill 3574 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Auction License Act is amended by changing
5 Section 20-15 and by adding Section 20-105 as follows:

6 (225 ILCS 407/20-15)

7 (Section scheduled to be repealed on January 1, 2020)

8 Sec. 20-15. Disciplinary actions; grounds. The Department
9 may refuse to issue or renew or a license, may revoke, suspend,
10 place on probation or administrative supervision, ~~suspend, or~~
11 ~~revoke any license or may~~ reprimand, or take other disciplinary
12 or non-disciplinary action as the Department may deem
13 appropriate, including imposing fines ~~proper, including the~~
14 ~~imposition of fines~~ not to exceed \$10,000 for each violation
15 with regard to any license ~~upon anyone licensed under this Act~~
16 for any one or combination of the following ~~reasons~~:

1 (1) False or fraudulent representation or material
2 misstatement in furnishing information to the Department
3 in obtaining or seeking to obtain a license.

4 (2) Violation of any provision of this Act or the rules
5 promulgated pursuant to this Act.

6 (3) Conviction by plea of guilty or nolo contendere,
7 finding of guilt, jury verdict, or entry of judgment or by
8 sentencing of any crime, including, but not limited to,
9 convictions, preceding sentences of supervision,
10 conditional discharge, or first offender probation, under
11 the laws of any jurisdiction of the United States: (i) that
12 is a felony; or (ii) that is a misdemeanor, an essential
13 element of which is dishonesty, or that is directly related
14 to the practice of the profession. ~~Conviction of or entry~~
15 ~~of a plea of guilty or nolo contendere to any crime that is~~
16 ~~a felony under the laws of the United States or any state~~
17 ~~or territory thereof, or that is a misdemeanor, an~~
18 ~~essential element of which is dishonesty, or any crime that~~
19 ~~is directly related to the practice of the profession.~~

20 (4) Being adjudged to be a person under legal
21 disability or subject to involuntary admission or to meet
22 the standard for judicial admission as provided in the
23 Mental Health and Developmental Disabilities Code.

24 (5) Discipline of a licensee by another state, the
25 District of Columbia, a territory of the United States, a
26 foreign nation, a governmental agency, or any other entity

1 authorized to impose discipline if at least one of the
2 grounds for that discipline is the same as or the
3 equivalent to one of the grounds for discipline set forth
4 in this Act or for failing to report to the Department,
5 within 30 days, any adverse final action taken against the
6 licensee by any other licensing jurisdiction, government
7 agency, law enforcement agency, or court, or liability for
8 conduct that would constitute grounds for action as set
9 forth in this Act.

10 (6) Engaging in the practice of auctioneering,
11 conducting an auction, or providing an auction service
12 without a license or after the license was expired,
13 revoked, suspended, or terminated or while the license was
14 inoperative.

15 (7) Attempting to subvert or cheat on the auctioneer
16 exam or any continuing education exam, or aiding or
17 abetting another to do the same.

18 (8) Directly or indirectly giving to or receiving from
19 a person, firm, corporation, partnership, or association a
20 fee, commission, rebate, or other form of compensation for
21 professional service not actually or personally rendered,
22 except that an auctioneer licensed under this Act may
23 receive a fee from another licensed auctioneer from this
24 State or jurisdiction for the referring of a client or
25 prospect for auction services to the licensed auctioneer.

26 (9) Making any substantial misrepresentation or

1 untruthful advertising.

2 (10) Making any false promises of a character likely to
3 influence, persuade, or induce.

4 (11) Pursuing a continued and flagrant course of
5 misrepresentation or the making of false promises through a
6 licensee, agent, employee, advertising, or otherwise.

7 (12) Any misleading or untruthful advertising, or
8 using any trade name or insignia of membership in any
9 auctioneer association or organization of which the
10 licensee is not a member.

11 (13) Commingling funds of others with his or her own
12 funds or failing to keep the funds of others in an escrow
13 or trustee account.

14 (14) Failure to account for, remit, or return any
15 moneys, property, or documents coming into his or her
16 possession that belong to others, acquired through the
17 practice of auctioneering, conducting an auction, or
18 providing an auction service within 30 days of the written
19 request from the owner of said moneys, property, or
20 documents.

21 (15) Failure to maintain and deposit into a special
22 account, separate and apart from any personal or other
23 business accounts, all moneys belonging to others
24 entrusted to a licensee while acting as an auctioneer,
25 associate auctioneer, auction firm, or as a temporary
26 custodian of the funds of others.

1 (16) Failure to make available to Department personnel
2 during normal business hours all escrow and trustee records
3 and related documents maintained in connection with the
4 practice of auctioneering, conducting an auction, or
5 providing an auction service within 24 hours after a
6 request from Department personnel.

7 (17) Making or filing false records or reports in his
8 or her practice, including but not limited to false records
9 or reports filed with State agencies.

10 (18) Failing to voluntarily furnish copies of all
11 written instruments prepared by the auctioneer and signed
12 by all parties to all parties at the time of execution.

13 (19) Failing to provide information within 30 days in
14 response to a written request made by the Department.

15 (20) Engaging in any act that constitutes a violation
16 of Section 2-102, 3-103, or 3-105 of the Illinois Human
17 Rights Act.

18 (21) (Blank).

19 (22) Engaging in dishonorable, unethical, or
20 unprofessional conduct of a character likely to deceive,
21 defraud, or harm the public.

22 (23) Offering or advertising real estate for sale or
23 lease at auction without a valid broker or salesperson's
24 license under the Real Estate License Act of 1983, or any
25 successor Act, unless exempt from licensure under the terms
26 of the Real Estate License Act of 2000, or any successor

1 Act.

2 (24) Inability to practice the profession with
3 reasonable judgement, skill, or safety as a result of a
4 physical illness, including, but not limited to,
5 deterioration through the aging process or loss of motor
6 skill, or a mental illness or disability.

7 (25) A pattern of practice or other behavior that
8 demonstrates incapacity or incompetence to practice under
9 this Act.

10 (26) Being named as a perpetrator in an indicated
11 report by the Department of Children and Family Services
12 under the Abused and Neglected Child Reporting Act and upon
13 proof by clear and convincing evidence that the licensee
14 has caused a child to be an abused child or a neglected
15 child as defined in the Abused and Neglected Child
16 Reporting Act.

17 (27) Inability to practice with reasonable judgement,
18 skill, or safety as a result of habitual or excessive use
19 or addiction to alcohol, narcotics, stimulants, or any
20 other chemical agent or drug.

21 (28) Wilfully failing to report an instance of
22 suspected child abuse or neglect as required by the Abused
23 and Neglected Child Reporting Act.

24 The entry of an order by a circuit court establishing that
25 any person holding a license under this Act is subject to
26 involuntary admission or judicial admission, as provided for in

1 the Mental Health and Developmental Disabilities Code,
2 operates as an automatic suspension of that license. That
3 person may have his or her license restored only upon the
4 determination by a circuit court that the patient is no longer
5 subject to involuntary admission or judicial admission and the
6 issuance of an order so finding and discharging the patient and
7 upon the Board's recommendation to the Department that the
8 license be restored. Where circumstances so indicate, the Board
9 may recommend to the Department that it require an examination
10 prior to restoring a suspended license.

11 If the Department or Board finds an individual unable to
12 practice because of the reasons set forth in this Section, the
13 Department or Board may require that individual to submit to
14 care, counseling, or treatment by physicians approved or
15 designated by the Department or Board, as a condition, term, or
16 restriction for continued, reinstated, or renewed licensure to
17 practice; or, in lieu of care, counseling, or treatment, the
18 Department may file, or the Board may recommend to the
19 Department to file, a complaint to immediately suspend, revoke,
20 or otherwise discipline the license of the individual. An
21 individual whose license was granted, continued, reinstated,
22 renewed, disciplined or supervised subject to such terms,
23 conditions, or restrictions, and who fails to comply with such
24 terms, conditions, or restrictions, shall be referred to the
25 Secretary for a determination as to whether the individual
26 shall have his or her license suspended immediately, pending a

1 hearing by the Department. In instances in which the Secretary
2 immediately suspends a person's license under this Section, a
3 hearing on that person's license must be convened by the
4 Department within 21 days after the suspension and completed
5 without appreciable delay. The Department and Board shall have
6 the authority to review the subject individual's record of
7 treatment and counseling regarding the impairment to the extent
8 permitted by applicable federal statutes and regulations
9 safeguarding the confidentiality of medical records.

10 An individual licensed under this Act and affected under
11 this Section shall be afforded an opportunity to demonstrate to
12 the Department or Board that he or she can resume practice in
13 compliance with acceptable and prevailing standards under the
14 provisions of his or her license.

15 In enforcing this Section, the Department or Board, upon a
16 showing of a possible violation, may compel an individual
17 licensed to practice under this Act, or who has applied for
18 licensure under this Act, to submit to a mental or physical
19 examination, or both, as required by and at the expense of the
20 Department. The Department or Board may order the examining
21 physician to present testimony concerning the mental or
22 physical examination of the licensee or applicant. No
23 information shall be excluded by reason of any common law or
24 statutory privilege relating to communications between the
25 licensee or applicant and the examining physician. The
26 examining physicians shall be specifically designated by the

1 Board or Department. The individual to be examined may have, at
2 his or her own expense, another physician of his or her choice
3 present during all aspects of this examination. Failure of an
4 individual to submit to a mental or physical examination when
5 directed shall be grounds for suspension of his or her license
6 until the individual submits to the examination, if the
7 Department finds that, after notice and hearing, the refusal to
8 submit to the examination was without reasonable cause.

9 (Source: P.A. 95-572, eff. 6-1-08; 96-730, eff. 8-25-09.)

10 (225 ILCS 407/20-105 new)

11 Sec. 20-105. Confidentiality. All information collected by
12 the Department in the course of an examination or investigation
13 of a licensee or applicant, including, but not limited to, any
14 complaint against a licensee filed with the Department and
15 information collected to investigate any such complaint, shall
16 be maintained for the confidential use of the Department and
17 shall not be disclosed. The Department may not disclose the
18 information to anyone other than law enforcement officials,
19 other regulatory agencies that have an appropriate regulatory
20 interest as determined by the Secretary, or a party presenting
21 a lawful subpoena to the Department. Information and documents
22 disclosed to a federal, State, county, or local law enforcement
23 agency shall not be disclosed by the agency for any purpose to
24 any other agency or person. A formal complaint filed against a
25 licensee by the Department or any order issued by the

1 Department against a licensee or applicant shall be a public
2 record, except as otherwise prohibited by law.

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.".